

1 BARRY J. PORTMAN
Federal Public Defender
2 NICHOLAS PETER HUMY
Assistant Federal Public Defender
3 160 West Santa Clara Street, Suite 575
San Jose, CA 95113
4 Telephone: (408) 291-7753
5 Counsel for Defendant PORTER

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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,) No. CR-07-00362 JF
11)
Plaintiff,) MOTION TO WITHDRAW AS COUNSEL;
12) MOTION FOR APPOINTED COUNSEL;
vs.) DECLARATION OF COUNSEL
13)
JOAKELLE PORTER,) Hon. Jeremy Fogel
14)
Defendant.)
15 _____)

16 The Office of the Federal Public Defender hereby moves to withdraw as counsel in this
17 matter. The reason for this request is that a conflict has developed since Mr. Porter was
18 sentenced on January 8, 2008.

19 On September 12, 2007, Mr. Porter pled guilty to an Information charging him with
20 possession of cocaine base, and with being a felon in possession of a firearm, in violation of Title
21 21 § 844(a) and Title 18 § 922(g)(1). The plea was by Plea Agreement pursuant to Rule
22 11(c)(1)(C) of the Federal Rules of Criminal Procedure, whereby the parties agreed to a sentence
23 of 5 years, the mandatory minimum (given the weight of the cocaine base) for the violation of the
24 Title 21 § 844. The Plea Agreement had a provision that Mr. Porter waived his appellate rights.

25 On January 8, 2008, Mr. Porter was sentenced to 5 years in the custody of the Federal
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1 Bureau of Prisons.

2 On January 17, 2008, undersigned counsel met with Mr. Porter at the Santa Clara County
3 Main Jail. Mr. Porter informed counsel that he wanted to file an appeal. Counsel informed Mr.
4 Porter that his filing of a Notice to Appeal would create a conflict with the Office of the Federal
5 Defender, and that he would need new counsel if he were to be represented. Mr. Porter said that
6 he understood.

7 The Federal Public Defender hereby moves to withdraw based on the facts asserted
8 above, and on behalf of Mr. Porter moves for appointment of new counsel in this matter.

9 I, Nicholas peter Humy, am an Assistant Federal Public Defender, assigned to handle this
10 matter. By signing and filing this motion, I declare under penalty of perjury that the facts
11 asserted in support of this motion are true and correct.

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13 Executed on this 18th day of January, 2008, in the Northern District of California.

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17 Dated: January 18, 2008

18 Respectfully submitted,

19 BARRY J. PORTMAN
20 Federal Public Defender

21 /s/
22 NICHOLAS PETER HUMY
23 Assistant Federal Public Defender
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